

AMENDED IN ASSEMBLY JUNE 16, 2009

AMENDED IN SENATE MARCH 31, 2009

**SENATE BILL**

**No. 320**

---

**Introduced by Senator Corbett**

February 25, 2009

---

An act to amend Sections 1716 and 1717 of the Code of Civil Procedure, relating to judgments.

LEGISLATIVE COUNSEL'S DIGEST

SB 320, as amended, Corbett. Judgments: foreign-country money judgments.

Existing law, the Uniform Foreign-Country Money Judgments Recognition Act, provides that foreign-country judgments that grant or deny recovery of a sum of money and that are final and conclusive are enforceable in California, with specified exceptions. The act excepts foreign-country judgments from its provisions in certain instances, including when the judgment was rendered under a system that does not provide impartial tribunals or the court lacked jurisdiction. The act prohibits nonrecognition of a foreign judgment based on a lack of personal jurisdiction if certain bases of personal jurisdiction are present.

This bill would additionally except from recognition under the act a foreign-country judgment ~~if a court of this state has determined the judgment includes recovery for a claim of defamation unless the court determines~~ that the defamation law applied by ~~a the~~ foreign court ~~in adjudicating a claim of defamation does not provide~~ *provided* at least as much protection for freedom of speech and the press as provided by both the United States and California Constitutions. The bill would provide, if a judgment was rendered in an action for defamation in a foreign country against a person who is a resident of California or a

person or entity amenable to jurisdiction in California, and declaratory relief with respect to liability for the judgment or a determination is sought that the judgment is not recognizable in California under the act, that a court has *jurisdiction to determine the declaratory relief action as well as* personal jurisdiction over ~~that~~ the person or entity *who obtained the foreign-country judgment* if the publication at issue was published in California, and the defendant has assets in California that might be subject to an enforcement proceeding to satisfy the foreign-country defamation judgment or may have to take actions in California to comply with the foreign-country defamation judgment.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1716 of the Code of Civil Procedure is  
2     amended to read:  
3     1716. (a) Except as otherwise provided in subdivisions (b)  
4     and (c), a court of this state shall recognize a foreign-country  
5     judgment to which this chapter applies.  
6     (b) A court of this state shall not recognize a foreign-country  
7     judgment if any of the following apply:  
8         (1) The judgment was rendered under a judicial system that  
9         does not provide impartial tribunals or procedures compatible with  
10        the requirements of due process of law.  
11        (2) The foreign court did not have personal jurisdiction over  
12        the defendant.  
13        (3) The foreign court did not have jurisdiction over the subject  
14        matter.  
15     (c) A court of this state is not required to recognize a  
16     foreign-country judgment if any of the following apply:  
17         (1) The defendant in the proceeding in the foreign court did not  
18         receive notice of the proceeding in sufficient time to enable the  
19         defendant to defend.  
20         (2) The judgment was obtained by fraud that deprived the losing  
21         party of an adequate opportunity to present its case.  
22         (3) The judgment or the cause of action or claim for relief on  
23         which the judgment is based is repugnant to the public policy of  
24         this state or of the United States.

1 (4) The judgment conflicts with another final and conclusive  
2 judgment.

3 (5) The proceeding in the foreign court was contrary to an  
4 agreement between the parties under which the dispute in question  
5 was to be determined otherwise than by proceedings in that foreign  
6 court.

7 (6) In the case of jurisdiction based only on personal service,  
8 the foreign court was a seriously inconvenient forum for the trial  
9 of the action.

10 (7) The judgment was rendered in circumstances that raise  
11 substantial doubt about the integrity of the rendering court with  
12 respect to the judgment.

13 (8) The specific proceeding in the foreign court leading to the  
14 judgment was not compatible with the requirements of due process  
15 of law.

16 (9) ~~A court of this state has determined~~ *The judgment includes*  
17 *recovery for a claim of defamation unless the court determines*  
18 *that the defamation law applied by—*~~a the foreign court—in~~  
19 ~~adjudicating a claim of defamation does not provide~~ *provided* at  
20 least as much protection for freedom of speech and the press as  
21 provided by both the United States and California Constitutions.

22 (d) If the party seeking recognition of a foreign-country  
23 judgment has met its burden of establishing recognition of the  
24 foreign-country judgment pursuant to subdivision (c) of Section  
25 1715, a party resisting recognition of a foreign-country judgment  
26 has the burden of establishing that a ground for nonrecognition  
27 stated in subdivision (b) or (c) exists.

28 SEC. 2. Section 1717 of the Code of Civil Procedure is  
29 amended to read:

30 1717. (a) A foreign-country judgment shall not be refused  
31 recognition for lack of personal jurisdiction if any of the following  
32 apply:

33 (1) The defendant was served with process personally in the  
34 foreign country.

35 (2) The defendant voluntarily appeared in the proceeding, other  
36 than for the purpose of protecting property seized or threatened  
37 with seizure in the proceeding or of contesting the jurisdiction of  
38 the court over the defendant.

1 (3) The defendant, before the commencement of the proceeding,  
2 had agreed to submit to the jurisdiction of the foreign court with  
3 respect to the subject matter involved.

4 (4) The defendant was domiciled in the foreign country when  
5 the proceeding was instituted or was a corporation or other form  
6 of business organization that had its principal place of business  
7 in, or was organized under the laws of, the foreign country.

8 (5) The defendant had a business office in the foreign country  
9 and the proceeding in the foreign court involved a cause of action  
10 or claim for relief arising out of business done by the defendant  
11 through that office in the foreign country.

12 (6) The defendant operated a motor vehicle or airplane in the  
13 foreign country and the proceeding involved a cause of action or  
14 claim for relief arising out of that operation.

15 (b) The list of bases for personal jurisdiction in subdivision (a)  
16 is not exclusive. The courts of this state may recognize bases of  
17 personal jurisdiction other than those listed in subdivision (a) as  
18 sufficient to support a foreign-country judgment.

19 (c) If a judgment was rendered in an action for defamation in a  
20 foreign country against a person who is a resident of California or  
21 a person or entity amenable to jurisdiction in California, and  
22 declaratory relief with respect to liability for the judgment or a  
23 determination that the judgment is not recognizable in California  
24 under Section 1716 is sought, a court has ~~personal jurisdiction~~  
25 ~~over that person or entity~~ *jurisdiction to determine the declaratory*  
26 *relief action as well as personal jurisdiction over the person or*  
27 *entity who obtained the foreign-country judgment* if both of the  
28 following apply:

29 (1) The publication at issue was published in California.

30 (2) The person who is a resident, or the person or entity who is  
31 amenable to jurisdiction in California, either (A) has assets in  
32 California that might be subject to an enforcement proceeding to  
33 satisfy the foreign-country defamation judgment, or (B) may have  
34 to take actions in California to comply with the foreign-country  
35 defamation judgment.

36 This subdivision shall apply to persons who obtained judgments  
37 in defamation proceedings in a foreign country both prior to and  
38 after January 1, 2010.

O